

Any candidate should possess the required qualification as per the Scheme of Service.

The Appellant is challenging the appointment of the Co-Respondent to the post of D. in the public body.

In his Grounds of Appeal (GOA), he stated that he has better qualifications, more experience, good international exposure and has a legitimate expectation among others to be appointed as SMD.

The Respondent submitted a statement of defence wherein it is averred that Appellant did not qualify for the post in compliance to the Scheme of Service for the post. A copy of the Scheme of Service for the post of SMD was attached.

The Scheme of Service for the post of SMD provides that the post be filled

By promotion, on the basis of experience and merit, of an officer in the grade of DD who reckons at least two years' service in a substantive capacity in the grade and who

- (i) has the ability to tackle complex problems and think strategically;***
- (ii) possesses good analytical, communication and interpersonal skills;***
and
- (iii) has a strong sense of initiative, is proactive and self-driven.***

The case was called proforma to explain to all parties of the situation and the Appellant admitted that he knew that the case is one by promotion and not by selection. Counsel appearing for the Appellant agreed that Appellant did not possess the required two years' service in the grade of DD in a substantive capacity at the time the post was filled, the reason for which the Co-Respondent supersedes the Appellant in this promotional exercise. Furthermore, there was nothing in the grounds of appeal to rebut same.

It was averred in the Statement of Defence that Appellant was appointed as DD at the public body on 30th July 2018 and he was on leave without pay from 27th August 2018 to 6th April 2022 to take employment at the SADC.

Parties were requested to take a stand as it would be a waste of time for the Tribunal to hear a case without any prospect for the matter to succeed.

Appellant, through its counsel stand was that the matter be fixed for hearing. On the other hand, Respondent submitted a preliminary ground of objection which reads as follows:

“Respondent moves that the present appeal be dismissed in as much as the Appellant did not have two years’ service in a substantive capacity in the grade of DD as required by the Scheme of Service prescribed on 02 June 2014 for the post of D..”

In light of the stand of both parties, the Tribunal concludes that Respondent was absolutely right to approve the supersession of the Appellant for promotion of the Co-Respondent as SMD. The Tribunal also draws the attention of counsel that they should refrain to insist upon hearing a case when it is known to all parties that the Appellants do not possess the required qualification as the Tribunal has to see that matters are dealt speedily.

The Tribunal finds the appeal trivial, frivolous and vexatious and dismisses the appeal in pursuance of its powers under S 6 (4) (a) of the Public Bodies Appeal Act 2008.